



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: AUGUST 22, 2022

IN THE MATTER OF:

Appeal Board No. 623000

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective November 12, 2021 on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant and on behalf of the employer. By decision filed April 14, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted by the employer.

Our review of the record reveals that the case should be remanded to hold a hearing. The scope of the hearing was expanded to include that the claimant quit her job because she was fearful of a former employee, she had fired, who was allowed to return to the workplace. The parties are to be questioned as to how many times that former employee was allowed back on the premises after the claimant fired him; whether that employee spoke to the claimant or otherwise engaged with her when he returned to the workplace; whether the former employee threatened the claimant's husband when he was let onto the premises; whether there had been prior incidents of claimant being threatened by workers; whether the CEO had been notified of those prior incidents and whether the CEO had taken action in those incidents; whether the CEO planned to speak to the Shop Steward about the security breach he allowed; and whether

claimant filed a complaint with the union about the shop steward. Further, the parties should be questioned as to whether the claimant spoke with the shop steward directly about the security breach; whether the employer had security on site; and if the claimant filed a police report against former employee for threatening her. Any other testimony and/or evidence on this incident shall be allowed at the hearing.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

RANDALL T. DOUGLAS, MEMBER